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BY: _____ DATE: 2-23-2000

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Patent Application of Jurgen Eck et al.	: Group Art Unit: 1644
Appln. No.:	09/347,064	: Examiner: Gerald Ewoldt, Ph.D.
Filed:	July 2, 1999	:
For:	RECOMBINANT FUSION PROTEINS BASED ON RIBOSOME-INACTIVATING PROTEINS OF THE MISTLETOE *VISCUM ALBUM*	: Attorney Docket : No. **9282-5 (209282.0005)** : **(B 3521 US)**

RESPONSE TO RESTRICTION REQUIREMENT
AND
ELECTION OF SPECIES REQUIREMENT

This paper responds to the Office Action dated December 23, 1999 (Paper No. 5) in the above-referenced patent application. This Response is timely filed by virtue of the enclosed Petition for a one-month extension of time through and including February 23, 2000.

Response to Restriction Requirement

In item 1 of the Office Action, the Examiner requires restriction among four groups of claims. The Applicants elect the claims of group I, claims 1-27, 29, and 32-37. This election is made without traverse.

Response to Election of Species Requirements

In item 6. 1) A) of the Office Action (i.e. the election of species requirement pertaining to the claims of Group I), the Examiner requires election of species in five separate instances, as set forth in the following five paragraphs.

The Examiner requires election of an effector module. The Applicants elect "**the mistletoe lectin A chain encoded by a nucleic acid molecule which has the nucleotide sequence SEQ ID NO: 1**" as the effector module for initial prosecution on the merits. This election is made without traverse. The Applicants believe that each of the claims of Group I other than claim 2 (i.e. each of claims 1, 3-27, 29, and 32-37) include the elected species of effector module within their scope, and are thus readable on the elected species.

The Examiner requires election of a processing module. The Applicants elect "**the mistletoe lectin propeptide encoded by a nucleic acid molecule which has the nucleotide sequence TCC TCT GAG GTG CGC TAT TGG CCG CTG GTC ATA CGA CCC GTG ATA GCC (SEQ ID NO: 5, as shown in Figure 11c)**" as the processing module for initial prosecution on the merits. This election is made without traverse. The Applicants believe that each of the claims of Group I other than claim 3 (i.e. each of claims 1, 2, 4-27, 29, and 32-37) include the elected species of processor module within their scope, and are thus readable on the elected species (the amino acid sequence recited in item i of claim 8 being that encoded by a nucleic acid molecule which has the nucleotide sequence SEQ ID NO: 5). Upon reviewing the paper copy of the sequence listing, the Applicants have noted that the sequence listing filed with the application included incorrect sequences for SEQ ID NO: 5 and 6 (see Fig. 11c). A corrected sequence listing is enclosed with this Response.

The Examiner requires election of a targeting module. The Applicants elect "**basic fibroblast growth factor**" as the targeting module (e.g. as disclosed on 35-38 of the specification) for initial prosecution on the merits. This election is made without traverse. The Applicants believe that each of the claims of Group I (i.e. each of claims 1-27, 29, and 32-37) include the elected species of targeting module within their scope, and are thus readable on the elected species.

The Examiner requires election of a modulating module (i.e. a "modulator" module, as recited in the claims). The Applicants elect "**the mistletoe lectin B chain encoded by a nucleic acid molecule which has the nucleotide sequence of SEQ ID NO: 3**" as the modulating module for initial prosecution on the merits. This election is made without traverse. The Applicants believe that each of the claims of Group I other than claim 6 (i.e. each of claims

1-5, 7-27, 29, and 32-37) include the elected species of modulating module within their scope, and are thus readable on the elected species.

The Examiner requires election of an affinity module. The Applicants elect "**a polypeptide having the amino acid sequence SEQ ID NO: 17**" as the affinity module for initial prosecution on the merits. This election is made without traverse. The Applicants believe that each of the claims of Group I (i.e. each of claims 1-27, 29, and 32-37) include the elected species of affinity module within their scope, and are thus readable on the elected species.

Thus, the Applicants believe that each of claims 1, 4, 5, 7-27, 29, and 32-37 read on embodiments pertaining to the species elected by the Applicants. It is the Applicants' understanding that each of these claims will be examined on the merits with regard to the five elected species. It is the Applicants' further understanding that if any of these claims are found by the Examiner to be allowable in view of the elected species, then the election of species requirements will be relaxed one-by-one with regard to the apparently allowable claims until and unless the claims are deemed to be non-allowable. In addition, it is the Applicants' understanding that one or more of claims 2, 3, and 6 will be examined upon relaxing the election of species requirements pertaining to the effector, processing, and modulating modules, respectively.

Respectfully submitted,

JURGEN ECK *ET AL.*

February 23, 2000
(Date)

By: _____

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Enclosures: Petition for Extension of Time
Corrected Sequence Listing (electronic and paper copies)
Verified Statement to Support Filing of Corrected Sequence Listing